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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,714	08/28/2001	Leatrese J. Harris	UMICH-4 C1	3955

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EXAMINER

COONEY, JOHN M

ART UNIT PAPER NUMBER

1711

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/939,714

Applicant(s)

HARRIS ET AL.

Examiner

John m Cooney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-11 and 19-21 is/are allowed.
- 6) ☒ Claim(s) 1-5, 12-18 and 22-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Applicant's arguments filed 2-19-03 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 1-36 have been considered but are moot in view of the new ground(s) of rejection.

All previous rejections are hereby withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 12-18, and 22-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shalaby et al. in view of Vonken et al. and Dorman et al.

Shalaby et al. discloses preparations of polymeric foams wherein a polymer and a leachable additive are combined and porosity is provided by removal of the leachable additive, and, further, products having a non-porous integrally connected outer layer are additionally provided for (see column 3 line 64 – column 4 line 15, column 6 lines 7-37, and column 9 line 15 et seq., as well as, the entire document). Shalaby et al. differs in that porosity through a blowing agent is not required. However, Vonken et al. discloses

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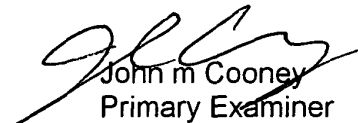
methods for obtaining expanded polymer foams wherein a polymer, overlapping with those disclosed by Shalaby et al., and a blowing agent, inclusive of carbon dioxide are combined under pressure and expanded upon release from the elevated pressure (see column 4 lines 1-32, column 5 lines 1-25, as well as, the entire document). Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the blowing agent foaming techniques employed by Vonken et al. in the preparations disclosed by Shalaby et al. for the purpose of imparting additional porosity to the articles realized in order to arrive at the products and/or processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results. Shalaby et al. further differs from applicants' claims in that they do not particularly utilize sodium chloride as a leachant. However, Dorman et al. discloses the employment of sodium chloride as a suitable leachant in related preparations for the purpose of imparting the leachant function. Accordingly, it would have been obvious for one having ordinary skill in the art to have utilized the sodium chloride leachant as a suitable leachant in the preparations of Shalaby et al. for the purpose of imparting its leachant effect in order to arrive at the products and/or processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John m Cooney whose telephone number is 703-308-2433. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, james seidleck, can be reached on (703) 308-2462. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.


John m Cooney
Primary Examiner
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